

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

X

## ECF Case

No. 1:11-md-02241 (JSR)

x

**DECLARATION OF KATE M. LESCIOTTO IN SUPPORT OF  
PLAINTIFF LUPIN ATLANTIS HOLDINGS S.A.'S AND PLAINTIFF/DEFENDANT  
ETHYPHARM S.A.'S JOINT OPENING CLAIM CONSTRUCTION BRIEF**

I, Kate M. Lesciotto, declare as follows:

1. I am an associate of the law firm of Leydig, Voit & Mayer, Ltd., counsel to Plaintiff Lupin Atlantis Holdings S.A. in the above-captioned action. I am also counsel to Ethypharm S.A. for *Lupin Atlantis Holdings S.A., et al. v. Paddock Labs, Inc., et al.*, Civil Action No. 11-0668 (JSR), a member case of the above-captioned action. I have personal knowledge of the facts set forth below.

2. Attached as Exhibit A is a true and correct copy of U.S. Patent No. 7,101,574.

3. Attached as Exhibit B is a true and correct copy of U.S. Patent No. 7,863,331.

4. Attached as Exhibit C is a true and correct copy of a document entitled, "Reply," dated October 21, 2005, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

5. Attached as Exhibit D is a true and correct copy of a document entitled, "Amendment," dated February 21, 2006, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

6. Attached as Exhibit E is a true and correct copy of a document entitled, "Second Declaration of George Bobotas, Ph.D., Under 37 C.F.R. § 1.132," dated February 14, 2006, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

7. Attached as Exhibit F is a true and correct copy of a document entitled, "Appeal Brief," dated July 14, 2009, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

8. Attached as Exhibit G is a true and correct copy of an excerpt of a document entitled, "Declaration Under 37 C.F.R. § 1.132," dated October 21, 2005, which was attached as Annex 4 to Exhibit O, listed below, and was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

9. Attached as Exhibit H is a true and correct copy of an excerpt of a document entitled, "Declaration Under 37 C.F.R. § 1.132," dated October 21, 2005, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

10. Attached as Exhibit I is a true and correct copy of a document entitled, "Notice of Allowance and Fee(s) Due," dated July 12, 2006, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

11. Attached as Exhibit J is a true and correct copy of a document entitled, "Supplemental Response," dated June 23, 2006, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

12. Attached as Exhibit K is a true and correct copy of a document entitled, “Response to Official Action Under 37 C.F.R. § 1.111,” dated October 26, 2007, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

13. Attached as Exhibit L is a true and correct copy of a document entitled, “Amendment and Reply,” dated May 5, 2004, which was obtained from the publicly available prosecution history of United States Patent No. 7,101,574.

14. Attached as Exhibit M is a true and correct copy of a document entitled, “Notice of Allowability,” dated November 3, 2009, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

15. Attached as Exhibit N is a true and correct copy of a document entitled, “Notice of Allowance and Fee(s) Due,” dated November 3, 2010, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

16. Attached as Exhibit O is a true and correct copy of an excerpt of a document entitled, “Amendment,” dated February 29, 2008, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

17. Attached as Exhibit P is a true and correct copy of the article Munoz, A., et. al., “Micronised fenofibrate,” *Atherosclerosis*, Vol. 110 (Suppl.), pp. S45-S48 (1994).

18. Attached as Exhibit Q is a true and correct copy of an excerpt from Chambers Dictionary of Science and Technology (1999).

19. Attached as Exhibit R is a true and correct copy of an excerpt from Hawley’s Condensed Chemical Dictionary (13th ed. 1997).

20. Attached as Exhibit S is a true and correct copy of an excerpt from McGraw-Hill Dictionary of Scientific and Technical Terms (5th ed. 1994).

21. Attached as Exhibit T is a true and correct copy of a document entitled, "Response to Restriction Requirement and Second Preliminary Amendment," dated February 21, 2007, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

22. Attached as Exhibit U is a true and correct copy of a document entitled, "Amendment After Final," dated July 31, 2008, which was obtained from the publicly available prosecution history of United States Patent No. 7,863,331.

23. Attached as Exhibit V is a true and correct copy of an email dated June 21, 2011 from Joel M. Wallace to Kate M. Lesciotto and Brian P. O'Shaughnessy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 21, 2011



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